Silvary

BEFORE THE 1 POLLUTION CONTROL HEARINGS BOARD STATE OF WASHINGTON 2 IN THE MATTER OF 3 G. S. INVESTMENT CO., INC., 4 Appellant, 5 PCHB No. 77-34 ν. 6 FINAL FINDINGS OF FACT, PUGET SOUND AIR POLLUTION CONCLUSIONS OF LAW AND ORDER CONTROL AGENCY. 7 Respondent. 8 9

This matter, an appeal from the issuance of a \$250 civil penalty for the alleged violation of Section 9.03 of respondent's Regulation I, came before the Pollution Control Hearings Board, Dave J. Mooney and Chris Smith, at a formal hearing on June 17, 1977 in Seattle. David Akana presided.

Appellant appeared through its operations manager, J. K. Simpson; respondent appeared through its attorney, Keith D. McGoffin.

Having heard the testimony, having examined the exhibits, and being fully advised, the Pollution Control Hearings Board makes these

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## FINDINGS OF TAGE

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of the violation, appellant's representative was informed of the violation. Respondent's inspector testified that he informed appellant's representative of the avoidance provisions of Section 9.16 of the Regulation, which 3 conversation appellant's representative could not recall. 4

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Any Finding of Fact which is deemed to be a Conclusion of Law is hereby adopted as such.

From these Findings, the Pollution Control Hearings Board comes to these

## CONCLUSIONS OF LAW

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The board has jurisdiction over the persons and over the subject matter of this proceeding.

II

Appellant violated Section 9.03(b)(1) of Regulation I on March 3, 1977 by causing or allowing the emission of an air contaminant for more than three minutes in one hour which was darker in shade than No. 1 on the Ringelmann Chart. Although respondent provides a method for avoidance of violations, (Section 9.16) there is uncertainty as to whether such provision was communicated to or understood by appellant. And while respondent is expected to make efforts to adequately inform the public of its regulation, ignorance of such regulation is not sufficient cause to strike a violation. We feel that a penalty is proper, but under the facts and circumstances of this matter, the amount of the penalty is excessive and should be reduced to \$100.

III

Any Conclusion of Law which should be deemed a Finding of Fact is FINAL FINDINGS OF FACT, ,, CONCLUSIONS OF LAW AND ORDER 3

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